

**APR 17 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

RANDY ROBERT BRANSON,

Plaintiff - Appellant,

v.

J. W. FAIRMAN, JR., Warden; et al.,

Defendants - Appellees.

No. 05-16160

D.C. No. CV-03-05203-REC/SMS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Robert E. Coyle, District Judge, Presiding

Submitted April 13, 2006\*\*

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Randy Robert Branson, a California state prisoner, appeals pro se from the district court's summary judgment in favor of prison officials in his 42 U.S.C. § 1983 action alleging First and Eighth Amendment violations. We have

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Beene v. Terhune*, 380 F.3d 1149, 1150 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on Branson's deliberate indifference claims concerning his dental care because Branson failed to present evidence that the named defendants knew of and disregarded a substantial risk to Branson's health. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

Summary judgment was proper on Branson's First Amendment claims because he failed to allege he was prevented from sending and receiving mail. *See Learned v. City of Bellevue*, 860 F.2d 928, 933 (9th Cir. 1988).

Summary judgment was also proper on Brandon's claims against supervising officials because he failed to allege that they personally participated in any constitutional violation. *See Jeffers v. Gomez*, 267 F.3d 895, 915 (9th Cir. 2001) (section 1983 supervisory liability arises only upon a showing of personal participation by defendant).

**AFFIRMED.**